

STATEMENT OF FACTS

Your affiant, John Harvey King, is a Special Agent with the Federal Bureau of Investigation ("FBI") assigned to the Joint Terrorism Task Force. In my duties as a special agent, I have received training and gained experience in a variety of criminal laws and procedures. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of a violation of Federal criminal laws.

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

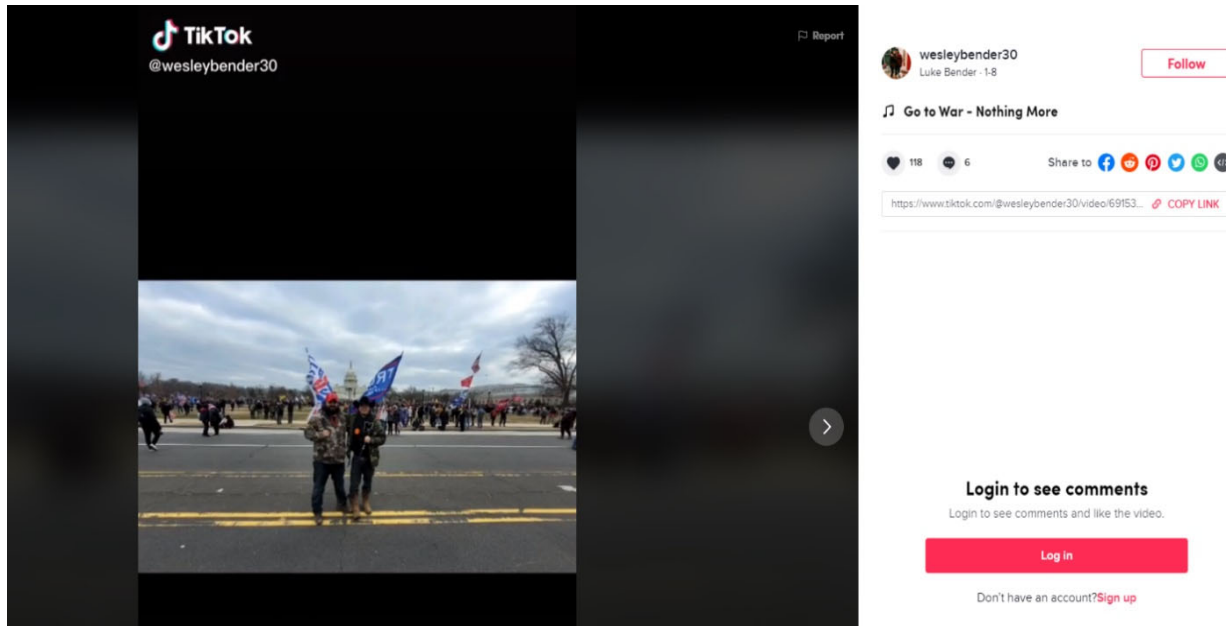
Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

FACTS SPECIFIC TO THIS CASE

On July 26, 2021, United States Magistrate Judge Robin M. Meriweather found that probable cause existed for the arrest of an individual named Luke Wessley Bender (“Bender”) based on a complaint and affidavit alleging the violations of 18 U.S.C. § 1512(c)(2) (obstruction of justice/Congress); 18 U.S.C. § 1752(a)(1) and (2) (entering and remaining in a restricted building or grounds and disorderly and disruptive conduct in a restricted building or grounds); and 40 U.S.C. §§ 5104(e)(2)(A), (D), and (G) (entering and remaining on the floor of Congress, disorderly conduct in a Capitol building, and parading, demonstrating, or picketing in a Capitol building). As described more fully in the affidavit supporting that complaint, Bender was identified as an individual who unlawfully breached the Senate floor on January 6, 2021.

Among the documents supporting Bender’s arrest were photographs and videos from Bender’s TikTok account, including videos of the exterior of the Capitol on January 6, 2021 and a photo of Bender and another individual standing across the street from the Capitol prior to the breach of the Capitol. The other individual is a stocky white male with a beard who is wearing a red baseball cap with white lettering, has a camouflage outer jacket, and wearing what appear to be blue jeans.



A closeup of the image is below:



Another source of information supporting probable cause for Bender's arrest was a YouTube video submitted by a tipster. Within that video were images of Bender and the same individual, wearing the same clothing, taken at or near the same time.

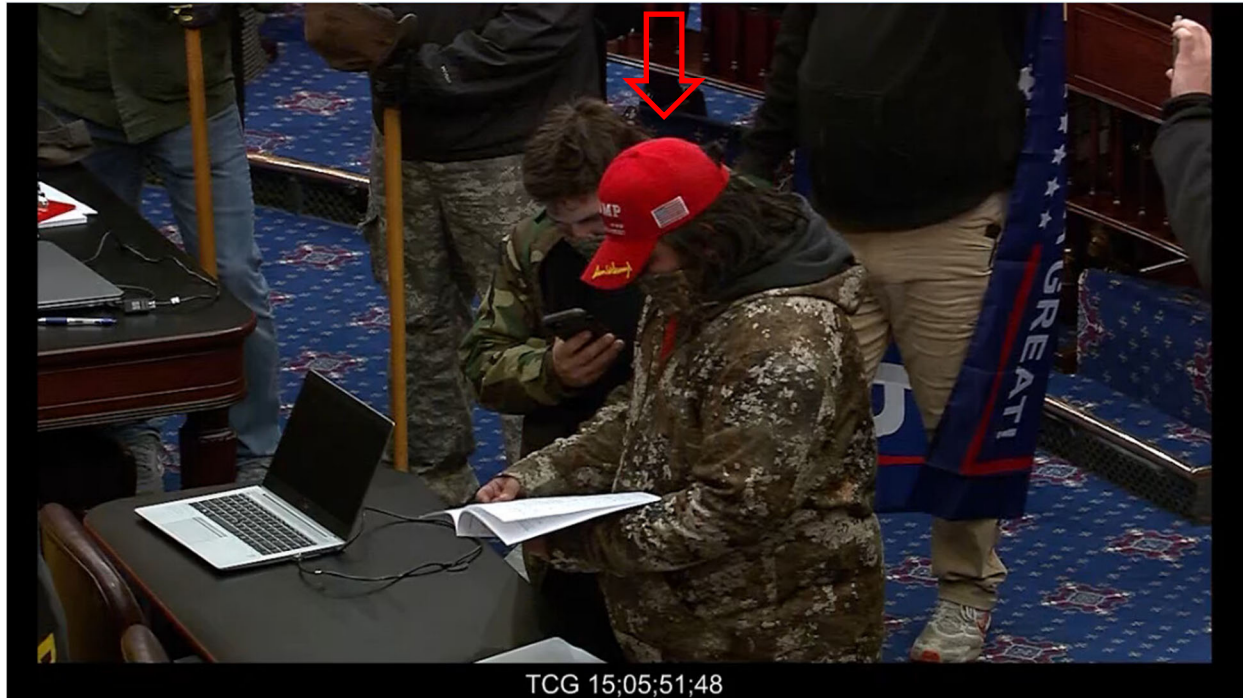


On July 29, 2021, Bender was arrested for charges related to his involvement in the Capitol riot on January 6, 2021, including unlawfully entering the Capitol building. During his custodial interview with your affiant and another law enforcement officer, and after being advised of his Constitutional rights, Bender admitted that he was present in the Capitol on January 6, 2021 and identified the individual with him inside the Capitol as LANDON BRYCE MITCHELL (“MITCHELL”). Bender stated that he is a former co-worker of MITCHELL, has known MITCHELL for two or three years, and has previously attended rallies with MITCHELL.

Bender stated that on January 6, 2021, he and MITCHELL joined a group of people moving from a rally that took place near the Ellipse to the Capitol. He and MITCHELL decided to get a closer look and saw people climbing the steps and scaffolding outside of the Capitol. Bender was following MITCHELL and they started climbing the scaffolding. Bender stated that he followed MITCHELL off the scaffolding and onto the terrace, where they had seen others enter the Capitol. Bender and MITCHELL entered the Capitol and went into the Rotunda, and then down several hallways. Bender stated that he and MITCHELL eventually walked to the Senate chamber, that they were there for approximately five minutes, and took photos while inside the Senate chamber.

Bender identified MITCHELL both verbally and from two photos from Capitol security footage. Bender identified a white male wearing a red baseball cap, camouflage face covering, and camouflage jacket, as MITCHELL. The individual that Bender identified as MITCHELL appears to be the same person, wearing the same clothing, as the man in the TikTok photograph above (but wearing a camouflage gaiter over his nose and mouth while within the Capitol). The first picture appears to depict Bender and MITCHELL entering the Senate chamber, and the second picture appears to depict Bender and MITCHELL examining a document near a desk on the Senate floor. MITCHELL is identified with a red arrow.





Additionally, Bender provided MITCHELL's phone number as XXX-XXX-0945 and confirmed MITCHELL's contact information in his personal cell phone.

According to an online database, the carrier for XXX-XXX-0945 is AT&T. Pursuant to legal process, AT&T provided subscriber information for the phone number showing that the account holder is LANDON MITCHELL and include a home address in Houston, Texas. Records obtained from the Texas Department of Motor Vehicles list MITCHELL's address as the same location in Houston, Texas.

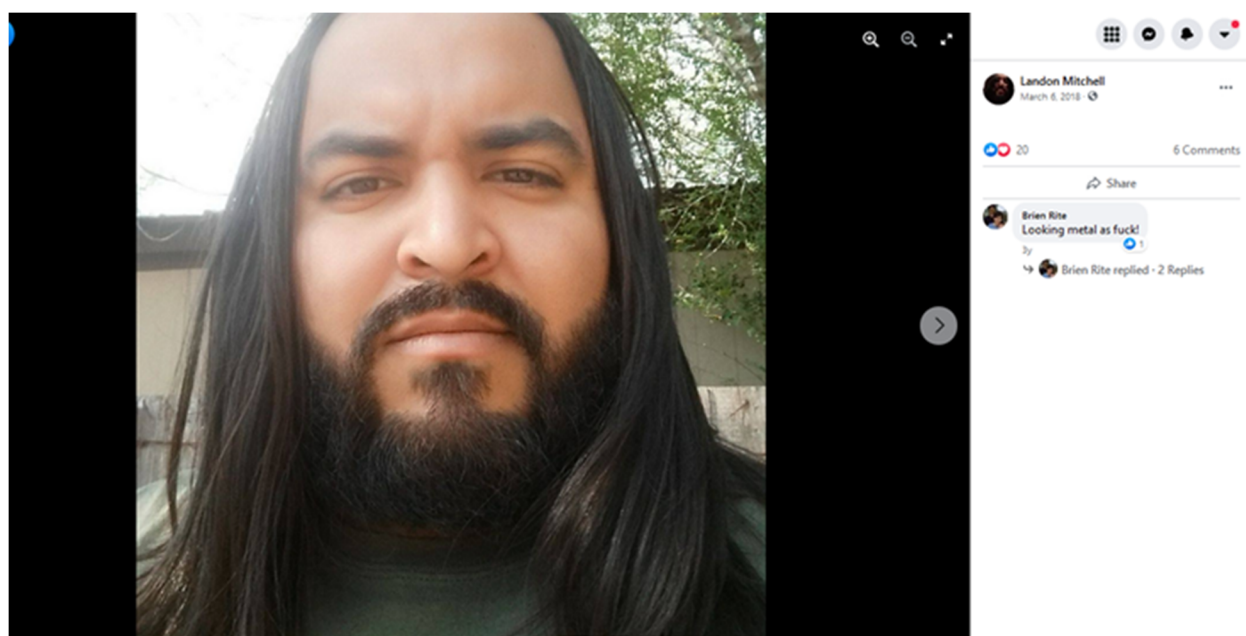
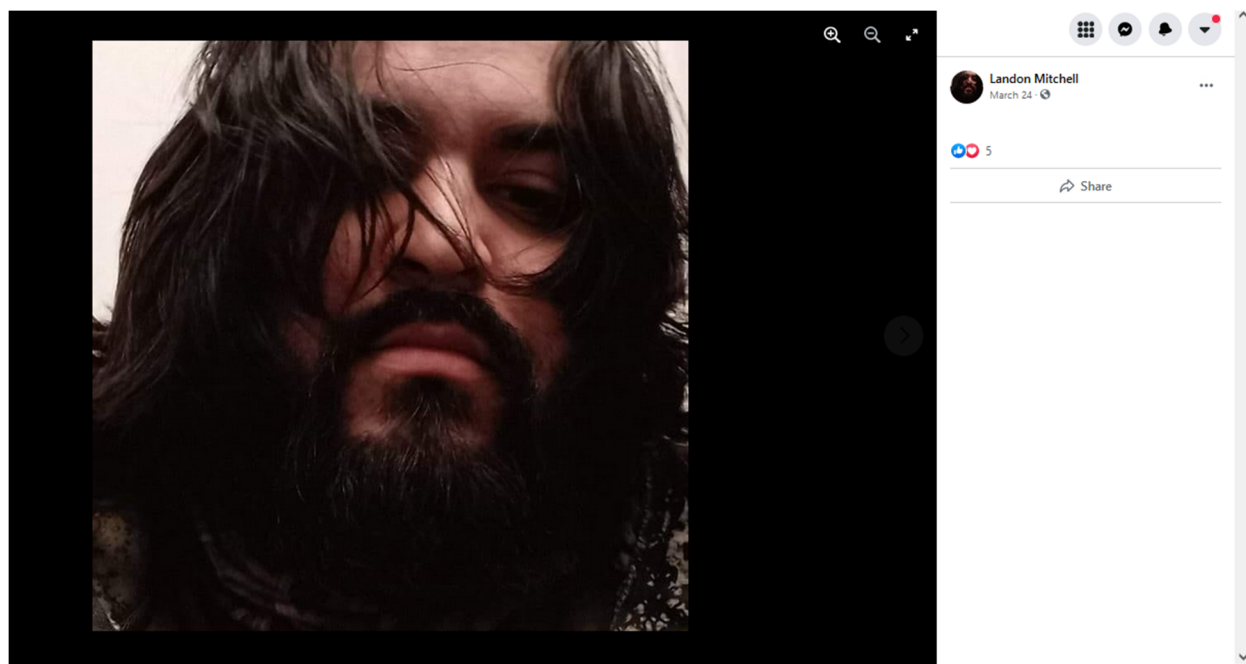
Pursuant to an authorized search warrant, law enforcement obtained records from AT&T for cell towers providing service to the United States Capitol. The records show that the device associated with XXX-XXX-0945 utilized a cell site consistent with providing service to the geographic area that includes the interior of the United States Capitol building on and around the time of the attack on the Capitol on January 6, 2021.

Pursuant to an authorized search warrant, law enforcement obtained records from Bender's iCloud account. Among the images found within Bender's iCloud account is what appears to be a clearer picture taken at or near the time of the photograph posted onto Bender's TikTok account:



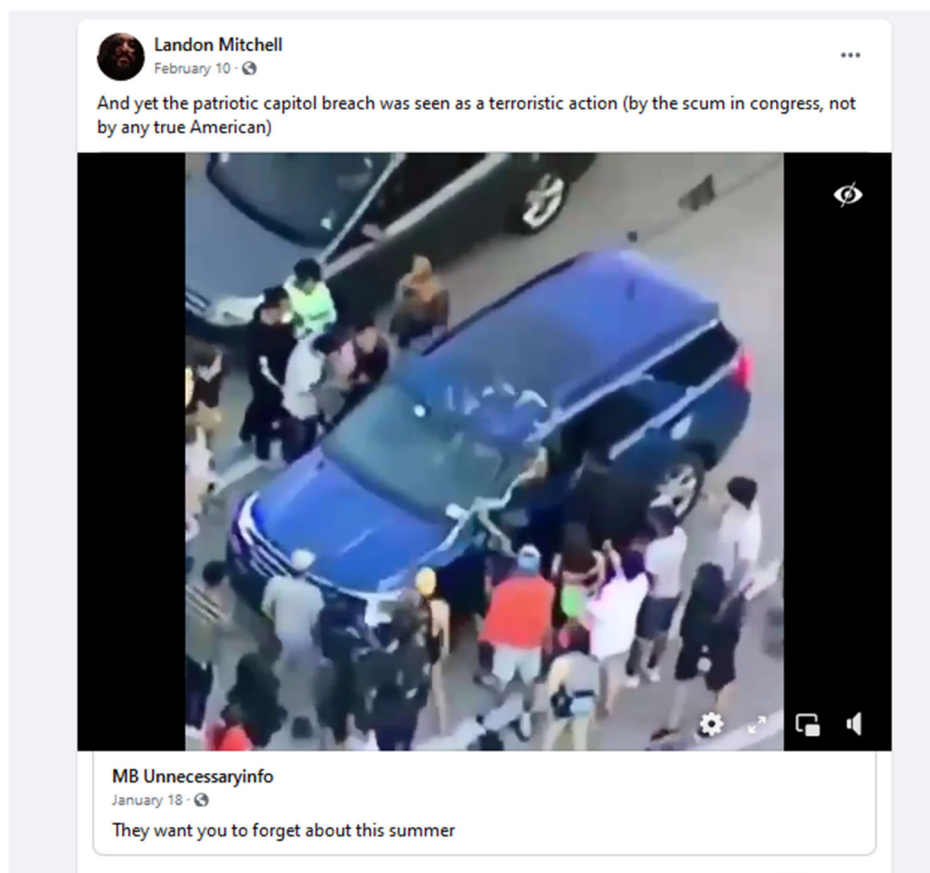
Your affiant was able to obtain records, including a photograph of MITCHELL from the Texas Department of Motor Vehicles, and to confirm that the person depicted in MITCHELL'S driver's license photograph bears a strong resemblance to the bearded man wearing the red baseball cap and camouflage jacket in Bender's social media posts, captured in the security footage at the Capitol wearing the same clothing and a gaiter, and identified by Bender as MITCHELL.

Open source research indicates that Landon MITCHELL's Facebook UID is XXXXXXXX646, username "landon.c.mitchell." Pursuant to legal process, Facebook provided records showing that Facebook UID XXXXXXXX646 is associated with email account hrafnaguthsson@yahoo.com and phone number XXX-XXX-0945 (the same number provided by Bender for MITCHELL). The below photos are screenshots of the Facebook profile pictures.



The account profile page included several posts that appear to reference the election results and/or the Capitol insurrection, some of which are included as screenshots below.





Also pursuant to that search warrant, law enforcement obtained messages, including attached photographs and videos, from MITCHELL's Facebook account. Within those messages, MITCHELL stated on January 6, 2021 that he "breached the Capitol today," that he was "one of the very first in," "one of the first to Breach," and "climbed the scaffolding up 3 stories, pushed back the police and breached the doors!!" When discussing his presence within the Capitol on January 6, MITCHELL stated that "people are fed up with how crooked the government has been and they pretty much been laughing at us thinking we wouldn't do anything about it[.]" He continued, "we[']re not happy. They learned that today."

On January 17, 2021, MITCHELL corresponded with an individual who expressed concern that MITCHELL might be arrested for unlawfully breaching the Capitol on January 6, 2021. MITCHELL assured the individual that he is "invincible" and "not too worried," because he "was masked up the whole time." The following conversation ensued:

Author [REDACTED] Facebook: 100055342455588)
Sent 2021-01-17 19:47:56 UTC
Body Hey hun you haven't been arrested have you?

Author [REDACTED] Facebook: 100055342455588)
Sent 2021-01-17 19:48:04 UTC
Body I saw they went after everyone near the capital

Author Landon Mitchell (Facebook: 1030562646)
Sent 2021-01-17 19:48:39 UTC
Body Ha! Nah I'm invincible.

Author [REDACTED] Facebook: 100055342455588)
Sent 2021-01-17 19:48:46 UTC
Body [REDACTED]

Author Landon Mitchell (Facebook: 1030562646)
Sent 2021-01-17 19:48:50 UTC
Body Seriously tho I'm not too worried

Author [REDACTED] Facebook: 100055342455588)
Sent 2021-01-17 19:48:56 UTC
Body I'm sitting here watching the news like well fuck maybe I should see if he's been arrested or not

Author Landon Mitchell (Facebook: 1030562646)
Sent 2021-01-17 19:49:28 UTC

Body

Lol I appreciate the concern fr. I was masked up the whole time

Author [REDACTED] Facebook: 100055342455588)

Sent 2021-01-17 19:49:41 UTC

Body Smart move

Author Landon Mitchell (Facebook: 1030562646)

Sent 2021-01-17 19:49:53 UTC

Body Lol yupp

MITCHELL explained to another individual through Facebook on January 18, 2021:

Author Landon Mitchell (Facebook: 1030562646)

Sent 2021-01-18 00:23:59 UTC

Body Ha! Made it on the new yorker. Ain't that something?

Author Landon Mitchell (Facebook: 1030562646)

Sent 2021-01-18 00:24:17 UTC

Body Just the back of my head tho lol

Author (Facebook: 100008054020662)

Sent 2021-01-18 00:24:34 UTC

Body What are the odds with all that footage its only that? I think
[REDACTED]'s prayers are working for you.

Author Landon Mitchell (Facebook: 1030562646)

Sent 2021-01-18 00:25:33 UTC

Body Lol yeah, thank God for giving me the foresight to keep my mask
up

Author (Facebook: 100008054020662)

Sent 2021-01-18 00:25:49 UTC

Body Gj

Author Landon Mitchell (Facebook: 1030562646)

Sent 2021-01-18 00:26:00 UTC

Body Gj?

Author (Facebook: 100008054020662)

Sent 2021-01-18 00:26:06 UTC

Body Sorry good job

Author Landon Mitchell (Facebook: 1030562646)

Sent 2021-01-18 00:26:15 UTC

Body Oh lol [] thanks

Among the attachments to MITCHELL's Facebook messages include photographs and videos of MITCHELL inside the Senate chamber. The following photos were attached to Facebook messages written by MITCHELL in January 2021.



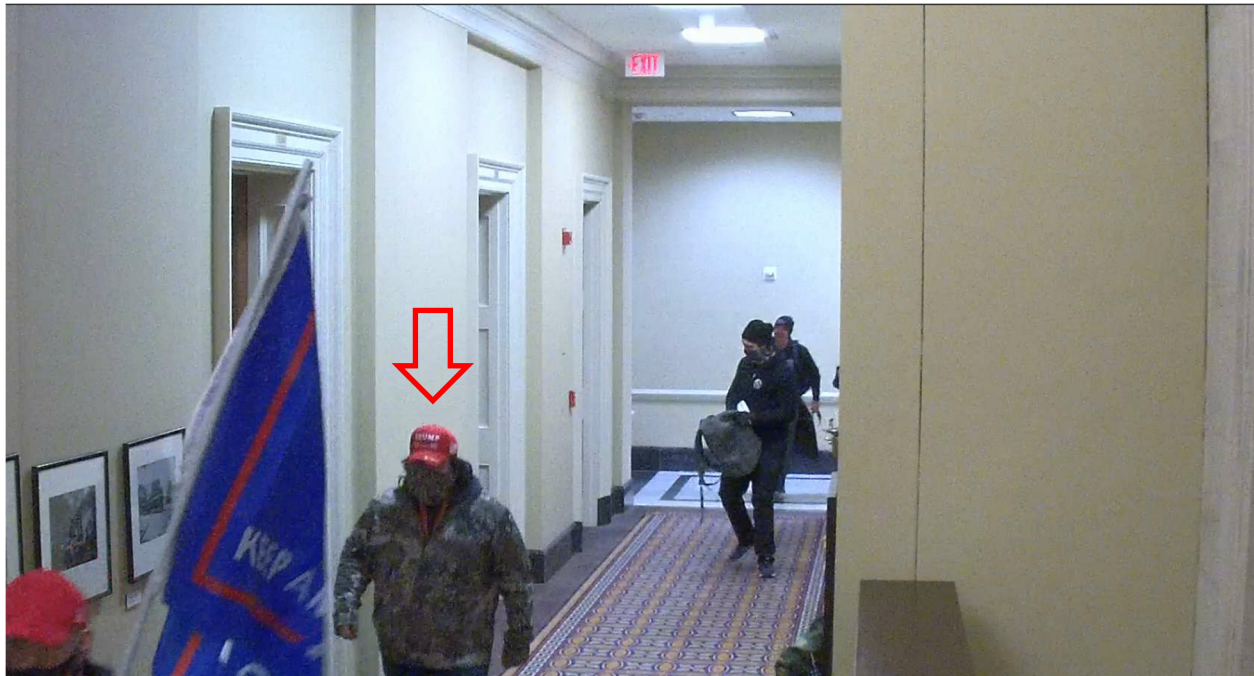


Your affiant also reviewed videos and images from inside the Capitol on January 6, 2021, which show Bender and the individual he identified as MITCHELL. As depicted below, MITCHELL can be seen walking in the Rotunda of the U.S. Capitol.



Bender and MITCHELL also walked down the hallway in the East Front Corridor, towards the Senate Chamber.





The below screenshot shows MITCHELL entering the Senate chamber.





The below screenshot shows MITCHELL in the Senate chamber during a prayer recited by an individual later identified as Jacob Chansley.



The below screenshot shows MITCHELL posing for a picture on the Senate dais, to the left of Jacob Chansley.




The below screenshot shows MITCHELL after he stepped down from the Senate dais and before he was escorted off of the Senate floor.



Based on the foregoing, your affiant submits that there is probable cause to believe that MITCHELL violated 18 U.S.C. §§ 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a “restricted building” includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

Your affiant submits there is also probable cause to believe that MITCHELL violated 40 U.S.C. §§ 5104(e)(2)(A), (D) and (G), which makes it a crime to willfully and knowingly (A) enter or remain on the floor of either House of Congress or in any cloakroom or lobby adjacent to that floor, in the Rayburn Room of the House of Representatives, or in the Marble Room of the Senate, unless authorized to do so pursuant to rules adopted, or an authorization given, by that House; (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

Finally, your affiant submits there is probable cause to believe that MITCHELL violated 18 U.S.C. § 1512(c)(2), which makes it a crime to obstruct, influence, or impede any official proceeding, or attempt to do so. Under 18 U.S.C. § 1515, congressional proceedings are official proceedings.



JOHN HARVEY KING
SPECIAL AGENT
FEDERAL BUREAU OF
INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 19 day of October 2021.

HONORABLE ROBIN M. MERIWEATHER
U.S. MAGISTRATE JUDGE